SEVENTH INSTALLMENT OF ENTIRE LEO. M. FRANK TESTIMONY

Prisoner's Remarkable Four-Hour Address to Jury Is Preceded by Damaging Admission by Factory Girl Character Witness.

ELOQUENCE AMAZES ALL IN COURT

Leo M. Frank, his life hanging on the jury's verdict, begins his own story in to-day's installment of the testimony in the Mary Phagan murder case. This is the first time that Frank's personal statement to the twelve men who were to decide his fate has been published outside of Atlanta, where the former Brooklyn boy was convicted and three times sentenced to death.

As coolly and deliberately as though there were nothing at stake, Frank delivered his remarkable discourse to the dozen jurors. He might have been merely a lecturer or an instructor on the intricacies of compiling a financial sheet for all the signs of emotion or feeling that he displayed in the greater part of his address.

Not a quaver broke his easy, conversational tone. Toward the latter part of his talk he addressed himself more particularly to the many ugly charges that had been made against him aside from the charge of murder. Then his voice was slightly raised and he spoke with repressed earnestness to deny positively every story that had been told on the stand by the negro, Jim Conley, and any other witness.

PRISONER BELIES ACCUSATION.

Save for those infrequent moments, a casual spectator having no knowledge of that which was taking place or had gone before never would have guessed that a man was on trial for his life, accused of having strangled out the life of a little girl, nor would they have recognized in the quiet, self-possessed and rather studious-appearing young man in the witness chair the prisoner who was charged with being the author of the atrocious crime.

Yet when Leo Frank left the witness stand at the end of four hours probably no one in the courtroom was unaffected. Southern court annals in capital case record no other statement of such impressiveness as that delivered by Frank.

Tears were in the eyes of the jurors who later, following the Solicitor General's fiery denunciation of the factory superintendent, were to vote that he was the guilty man and should be sentenced to be hanged. His young wife, until then a veritable Spartan woman in sitting unflinchingly as unspeakable accusations were hurled at her husband, collapsed completely as he finished.

The presiding judge, himself affected, brought court suddenly to an end for the day and, as the spectators filed out in unusual silence, they looked upon the wife, her form shaken with uncontrollable sobs, and upon the suffering mother, whose cheeks were wet with tears, but who gave no other sign of her emotions. Between them sat Frank, reassuring them both.

CHARACTER UPRIGHT AND MORAL.

John Ashley Jones, a business man, one of the character witnesses for the defense, testified that Frank was of upright and moral character. On cross-examination he denied he had heard any stories of Frank's misconduct toward girls at the factory. Mrs. Rae Frank of Brooklyn, mother of the prisoner, took the stand to say that Frank had no wealthy relatives in Brooklyn, as the negro Conley had quoted Frank as saying. She created a sensation when she denounced Solicitor Dorsey for his charges of immorality against Frank.

One of the most sensational pieces of testimony in the whole case was that given by the negro woman, Minola McKnight, who swore that she was forced to sign an affidavit against Frank by the threat of the detectives to keep her locked up until she did this.

She said that the entire staetment was false and that it was inspired by her husband, Albert McKnight. The first part of the direct examination of E. F. Holloway, day watchman at the pencil factory, concluded last week's installment of the testimony.

Reuben R. Arnold, associated with Luther Z. Rosser in the defense of Frank, brought out the testimony that Holloway always was at the factory on Saturday afternoons and that he never saw women going to Frank's office and never saw Conley hanging about the factory.

Holloway has just testified that he kept a watch all over the factory on Saturday afternoons and never turned over to Conley the watching of the front door, as to-day's installment begins.

Q. Did Conley ever take your place on Saturday afternoon when you were sick? A. I never have been sick a Saturday afternoon since I have been working there.

Q. Mr. Holloway, that elevator shaft, I believe, has just a slide door on the first floor—slide it up there and it's just an open shaft there? A. It's an open door that goes up and down by weight.

Q. How far is that shaft from the steps that lead down from the second floor? A. Just guessing at it, I think it is about ten or twelve feet.

Q. It is very dark in there, is it not? A. Yes, sir; have to keep a gas jet burning all the time.

Q. If a girl was coming down those steps and a man was in that dark place by that shaft, would it be a hard or an easy job for him to throw her down that shaft? A. It would be an easy job. He could grab her before she could see him. In other words, she wouldn't be looking at that dark place; she'd be looking toward the door.

Cross-examination by Solicitor Dorsey.

Q. Mr. Holloway, have you been to see Mr. Frank in jail? A. I went to see him one time, sir, since he has been there.

Q. Now, do you remember a conversation you had with Kendrick, the night watchman—the former night watchman over here at the pencil factory some time ago? Do you remember talking to him as to whether or not he would swear that Frank had ever called him during the time he worked as night watchman after Frank had left the factory for the night? A. No, sir.

Q. Didn't you try to get Kendrick to swear that? A. No, sir.

Q. Didn't you tell Kendrick, when he said that that never had been done, that nobody would ever know it but you and him? A. No, sir; I did not—I did not.

Q. Now, when there was a man down there at the factory by the name of Whitfield (Detective L. P. Whitfield), after they had been searching that factory for three or four days trying to find something, the day before they turned up that big club didn't you say, "Be sure to come back to-morrow, you'll be sure to find something"? A. No, sir; I did not.

Q. What did you say about getting the reward for turning up Jim Conley? A. I never said a thing. I told Black or some of them several days after they came down there after this negro: "If this negro is convicted he is my negro, you understand." That's what I said.

Q. You knew about all this reward of $1,500, didn't you, that all these newspapers had published? A. Of course, I knew about that.

Q. Now, what time did you tell Mr. Arnold that you left the factory Saturdays? A. About 4.30.

Q. Didn't you tell me that sometimes you were at the factory until 3 o'clock, when I was asking you on May 12 about the very same thing? A. If I said "3 o'clock," sir, I meant "4 o'clock."

Q. What do you mean by 4.30—when you told Mr. Arnold 4.30—if you meant 4 o'clock? You say you said 3 o'clock when you meant 4; now, what do you mean by 4.30? A. I don't remember saying 4.30.

Q. Why, it just dropped out of your mouth. A. I know it did just then.

FOUND ONLY TWO BOTTLES AT FACTORY.

Q. Now, Mr. Holloway, don't you know that frequently on Monday morning bottles would be found in that office and around out there on the office floor, beer bottles? A. I never saw but two beer bottles there since I have been there.

Q. Don't you know the negroes would go out and buy beer with the empty bottles? A. If they ever got any I didn't know it. I never saw any.

George Epps, the boy acquaintance of Mary Phagan, who said he had ridden to town with Mary the day she was murdered, was recalled for the defendant for further cross-examination. He was asked if he remembered an Atlanta newspaper reporter visiting his home the Sunday the little girl's body was found, in an effort to discover who last had seen Mary before she met her death, and if he did not stand by and say nothing about riding with her on Saturday, while his young sister was telling of playing with Mary the Thursday before her murder. Epps admitted seeing the reporter, but denied he was in the room when the questions were asked. The reporter was called, and testified he had talked to both the children for some time, asking them specially when they last had seen Mary. He said Epps told of riding to town with Mary occasionally at other times, but made no mention of being with her the day of the crime.

FRANK'S ASSISTANT WORKED ON REPORTS.

Direct examination by Mr. Arnold.

Q. What is your name? A. Herbert G. Schiff.

Q. You are assistant superintendent, I believe, of the National Pencil factory? A. I have worked in several capacities for the pencil factory.

Q. Well, what was your position at the time of this sad murder? A. I was assisting Mr. Frank.

Q. What were your duities as assistant? A. Why, the work was equally divided; Mr. Frank had a part and I had a part.

Q. Did you have anything to do with getting up the statements and keeping the books and getting up the financial sheet; did you have any part in that? A. Yes, sir, I did.

Q. Now, where had your work been performed. A. Right in the room—right in the same office. Mr. Frank and I occupied the same office, the inner office.

Q. How long had it been your habit to make that financial sheet on Saturday? A. Ever since the factory had been in existence. It was a fixed custom.

Q. What part did you take in helping Frank to make that financial sheet? A. Getting up the data—part of the data.

Q. By that do you mean the reports? A. Getting up a sheet that we term the factory record; that is, the number of pencils packed for the week, getting up the tip record. I got the reports from the different foremen and foreladies; got the slat record from the slat mill, the number of slats delivered to manufacture pencils with, and gave him the totals of the pay roll.

Q. Beginning with June of 1913, do you recall up to the first of January of this year how much time you missed from the factory? A. None at all, except my vacation, the last week in July and the first week in August.

Q. When you were in the city, did you miss any time at all? A. No, sir.

WAS IN FACTORY EVERY SATURDAY.

Q. Now, excepting those two weeks, did you miss a single Saturday between the first of June and the first of January? A. No, sir.

Q. What time would you get back to the factory on Saturday afternoons? A. I would usually leave at half-past 12 and return to the factory between 2 and 2.15.

Q. What time did Frank get back on Saturdays? A. He would leave a little after 1 and return about 3.

Q. You generally got back earlier? A. Yes, sir.

Q. Do you recall any Saturday last year that Mr. Frank got back earlier than you did? A. No, sir.

Q. Now, when you would go back on Saturday, would you do any of the work on those sheets up to the time that Mr. Frank would get back? A. Yes, sir, I usually began to compile my slat record and get up the pencil sheets.

Q. When Frank would come back on Saturday, where would he take it up? A. He would begin as soon as I had turned over the part I had to him—he would go on with his part of the data until I had finished mine, and then he would continue to finish the sheet.

Q. Did you work together? A. We did.

Q. Isn't it a fact that you were frequently interrupted Saturdays by salesmen and men of that sort calling on you. A. Yes, sir.

Q. The door was open, wasn't it—the downstairs door? A. Open.

Q. Did you ever lock it, you and Frank, when you were working there together? A. No, sir.

Q. I will get you to state whether Mr. Kopheimer and people from Montag's would call on you Saturday afternoons? A. Very frequently.

Q. In other words, you were liable to be interrupted at any time Saturday afternoons by people on business? A. Yes, sir.

Q. How long did you and Frank take to finish that financial sheet on Saturdays? A. Why, we usually left about half-past 5 or a quarter to 6. It took him about two and a half to three hours.

Q. Would you leave separately or together? A. Usually together.

Q. Did Mr. Frank's wife come up there some Saturdays? A. Very often.

Q. Do you ever recall on a Saturday, after 2 o'clock, seeing this negro, Jim Conley, in the front or anywhere around the office there? A. No, sir.

Q. Did you and Mr. Frank, or did Frank, have any women up there at any time on those Saturdays? A. No, sir, we did not.

Q. Did you ever see any women up there? A. No, sir, I did not.

NEVER SAW DALTON AROUND THE FACTORY.

Q. Did you ever see this man Dalton around the factory at all? A. I never saw him before in my life until I saw him in the witness room up stairs.

Q. Did you know a girl by the name of Daisy Hopkins who ever worked there? A. Yes, sir; I knew there was a girl by that name who worked in the packing room.

Q. Did you ever see her come back in the building on any Saturday there? A. No, sir.

Q. Now, coming up nearer to the time of this tragedy, I want to ask you who paid off the help on Friday, April 25? A. I did.

Q. Do you recall a young lady by the name of Helen Ferguson getting her pay that night? A. I do.

Q. Whom did she get it from? A. She got it from me.

Q. Do you recall her or any other young lady coming up that day and attracting your attention after she was paid off and asking for Mary Phagan's pay? A. No, sir.

Q. If such a thing had occurred, would they or not have come to you to get it? A. Come to me and brought a note.

Q. Have you a regulation there about what must occur before one girl may collect another's pay? A. They have to have a note, unless we happen to know it's all right without it.

Q. Were you up there at the pay window where every one could see you? A. I was, sir.

Q. Were you handing out envelopes to anybody? A. I was.

Q. Did you or not see any of them go to Mr. Frank? A. I did not.

Q. Was there any reason why anybody should go to Mr. Frank for his pay when you were standing at the pay window paying them off? A. No, sir, there was not.

Helen Ferguson testified that on Friday night she went into Frank's office and asked him to Mary Phagan's envelope and that he said: "I cannot give it to you," and that as he started to say something else she turned and left. Solicitor Dorsey argued that Frank held the envelope back in the hope or knowledge that the Phagan girl would come for it the next day. Magnolia Kennedy testified she was with Helen Ferguson and did not hear her ask for Mary's pay.

Cross-examination by Solicitor Dorsey.

Q. How many times on Monday following the crime did Frank phone you to get the Pinkertons? A. About three or four times.

Q. He was anxious about it, wasn't he? A. Very anxious to have somebody look it up, yes.

Q. What did Frank say? A. He wanted me to see if we could not, in justice to all our employes, try to sift this thing down, and he suggested getting the Pinkertons.

Q. You say Mr. Frank talked a great deal about explaining his nervousness, didn't he? A. I didn't say he talked a good deal about it.

Q. Didn't you in your statement in your affidavit—that is your signature, isn't it? A. It is.

FRANK SPOKE ABOUT NERVOUSNESS.

Q. Didn't you state in this paper that Frank referred once or twice to his nervousness, that he undertook to explain it and account for it? A. I don't know that I put it in that way. I may have said that he spoke to me once or twice about being nervous.

Q. What did Frank say on these two or three occasions when he referred to the fact about his being nervous? A. I don't remember exactly; I think one time he explained to me how terribly the girl looked, and the other time that they rushed him into the undertaker's in the dark room and threw on the light.

Q. He said he was awfully shaken up by the way they rushed him into the room? A. He did.

Q. What did he say about his breakfast? A. He said that was one of the reasons he was nervous, he hadn't had any breakfast, wanted a cup of coffee.

Q. Didn't you try to discharge Conley and didn't Frank overrule you and keep him there? A. No, sir, he did not.

Q. Didn't you try to turn Conley off because he was no account, and didn't Frank keep him there? Then didn't you change him from running the elevator to something else? A. No, sir.

Q. Who did you ever talk to about Conley's general worthlessness? A. It was mostly talked to me.

Q. Well, did you think enough of all these complaints to call them to Mr. Frank's attention? A. I don't know whether we ever discussed Conley or not.

Q. Why, Mr. Schiff, looking after the business of the National pencil factory and complaints from all these people about a man you had hired to do work, and still you didn't take it up with your superintendent? A. I was not under Frank.

Q. Did you have authority to fire Conley? A. I did.

Q. But you did not fire him? A. I did not.

Q. Why did you keep him when he was so worthless? A. Because in a factory like that it is hard to get negroes who know something about it.

Frank Studying His Case

Photograph taken in jail of the defendant in the famous murder case. During the trial he spent many hours poring over points in the evidence and his defense.

I have put to you for further examination if it ever is questioned, or calling in another chemist to assist in it. A. Well, there is a certain rule in regard to that. It is that where anybody is put in jeopardy of life that a medical man who is called upon to make such a test will preserve half of the specimens; in other words, not use more than half. That is for the purpose of permitting another medical man, if desired, to check up his work and his tests; and not only that, but to permit him, if necessary, to check his own work and to prove the results of his own experiments on account of the great uncertainty of them. The usual rule, as I have always understood it, and have always practiced it when I made examinations for the Coroner, is that the entire specimen should not be disposed of, but that at least half of it should be preserved for the purposes I have stated.

Dr. Westmoreland said that Dr. Harris's opinion that Mary Phagan had suffered violence other than that which caused her death, and that it took place within five to fifteen minutes of her death, was "about the rashest conclusion" of which he ever had heard.

Cross-examination by Solicitor Dorsey.

Q. What is your personal feeling toward Dr. Harris, kindly or otherwise? A. I have none at all, one way or the other.

Q. You were associated with him on the State Board of Health? A. I was president of the board at the time he was secretary.

Q. Are you still on the board? A. No, sir.

Q. Is he still secretary? A. Yes, sir.

Q. How long were you associated together there? A. I think a little over six years.

Re-direct examination by Mr. Arnold.

Q. You were asked about your feelings toward Dr. Harris. You were instrumental in getting him on the State Board, where he is now? A. Yes, sir.

Q. What was the trouble you had with him; what was it about? A. I did not have any trouble. I preferred charges against him for scientific dishonesty and the board found him guilty, and when they would not remove him I resigned.

Q. You are still professor of surgery at the medical college? A. Yes, sir.

Q. Dr. Harris is not connected with that at all? No, sir.

Q. Do you believe that he is the same man now that he was formely? A. I know that he is not.

Q. Has he ascended or descended? A. I don't know whether I could answer it that way. Dr. Harris five years ago would not have done things he did two years ago. Those things are all matters of record.

Q. Whatever that row might have been, has that got anything to do with your opinion in this case? A. We did not have any row. I was an officer on the board, and we found that he was not conducting his duties properly, and I preferred charges against him, and the board tried him and found him guilty. But when they did not remove him I resigned. They found him guilty of the charges, but did not deem them sufficient to remove him, and I resigned.

Dr. J. C. Olmstead, another expert for the defense, gave testimony similar to that of Dr. Westmoreland. A physician would have found it totally impossible to arrive at the conclusions Dr. Harris reached by any of the methods known to science, he swore. He was of the opinion that cabbage no better masticated than that eaten by Mary Phagan might remain in the stomach ten or twelve hours. "It is such a guess that I do not know how to characterize it," he said when asked about Dr. Harris's time estimate. Another of Dr. Olmstead's expressions was: "Most extraordinary medical surmise I have ever heard of."

Joel Hunter, Public Accountant, Says Financial Sheet Would Require About Three Hours' Work.

Direct Examination by Mr. Arnold.

Q. What is your name? A. Joel C. Hunter.

Q. What is your occupation? A. I am a public accountant.

Q. What position do you hold with the Board of Examiners of the State of Georgia? A. Chairman of the board.

Q. I will get you to state if you have examined a certain financial statement said to have been made by Leo M. Frank, superintendent of the National pencil factory? A. Yes, sir.

Q. Did you, independently of Mr. Frank's work, go through all of the work required to make those calculations and required to make that report? A. In order to find out how long it would take a person to make out these reports I have in my hand, I made them out. I took these copies and went over the calculations.

Q. I will get you to say whether or not you found the figures in the financial statement correct. A. I found them correct within a decimal.

Q. I wish you would in your own way state what you did in order to verify those figures, how you did it, and tell us the quickest possible time that a man having the data on hand could figure out and write down that financial sheet. A. In order to find out how long it would take for that report to be made up, I made an examination line by line and item by item. I have figured an approximate time it would take to make the various entries if they had all of the data immediately available, and how long it it was not immediately available. I put these down in two separate columns and then struck an average. In my opinion the quickest possible time to make out this report, balance the cash and make out the comparative statements and the copies of which they furnished to me, I figured 150 minutes as the quickest possible time. I don't think that could be done by anybody except some one having experience in it, and knowing how to set up these facts and figures. This would not allow for checking the figures. In my opinion it would take between 180 and 210 minutes, or three to three and a half hours to make out this report and balance the cash and make out the two copies and the comparison between 1912 and 1913.

Another accountant testified that it took him three hours and eleven minutes to do the work that Frank is supposed to have done Saturday afternoon.

Miss Hattie Hall, Stenographer, Swears Frank Did Not Work on Financial Sheet in Forenoon.

Direct Examination by Mr. Arnold

Q. What is your name? A. Miss Hattie Hall.

Q. Miss Hall, what is your business? A. I am steno-bookkeeper for the National Pencil Company.

Q. Where do you do most of your work? A. In the offices of Montag Brothers.

Q. Do you work for the National Pencil Company? A. Yes, sir.

Q. Do you sometimes go down to the National Pencil factory's office and take work there? A. Whenever it is necessary, I do.

Q. Now, on Saturday, April 26, did you see Mr. Leo M. Frank? A. Yes, sir. The first time I saw him was at Montag Brothers', when he came over that morning.

Q. Now, what time did you first see Mr. Frank that morning? A. About 10 o'clock; I don't know exactly.

Q. He wanted you to come over to the pencil factory? A. Yes, sir.

Q. And work for him there? A. Yes.

Q. Did you finally go over there to the pencil factory? A. Yes, sir, between 10.30 and 11.

Q. Now, during any of this time, was Frank doing any regular work on any sheet or in any book? A. No, sir.

Q. He was not? A. No, sir.

Q. Was Frank working on that exhibiting financial sheet or any other similar document or figuring, or anything of that sort? A. No, sir—no.

Q. Now, I will get you to state about what time you finished your work. A. I finished my work in time to take those in there to him, get my hat and start down, and before I was ready to start down stairs the whistles on the outside blew; they were blowing for noon.

Q. Where were you when you heard them blow? A. I was in the outer office.

SAYS FACTORY CLOCK WAS CORRECT.

Q. What did you do? A. I went down stairs. I got to the first floor down stairs and I realized that I had left my umbrella up stairs, and I went back and got my umbrella, and as I started back out I passed near enough to the clock, and I looked at the clock, and it was two minutes past 12.

This witness gave the only positive testimony about the clock, which, Solicitor Dorsey contended, might have been five or six minutes slow. If, as Miss Hall's testimony indicates, the clock was correct, then the State's theory that Monteen Stover entered the factory after Mary Phagan entered and failed to find Frank in his office because he at that time had lured Mary to the metal room is without support. Monteen said she looked at the clock and it was five minutes after 12. Mary had not left the street car at that time, unless, as the State contended might have been the case, the car was about as much ahead of time as Dorsey wished the jury to believe the clock was behind time.

Cross-examination by Solicitor Dorsey.

Q. Miss Hall, how much were you getting being paid—April 26? A. $12.50 a week.

Q. How much are you getting now? A. $15.

Q. When did you get your raise? A. The first of August, and I would like to state if I am——

Q. Well, just answer my questions. Didn't you state last night up here in the soda fount that you got this raise and it came to you without even asking for it? A. I don't even go to the soda fount.

Q. Last night down there, didn't you say that you got the raise as soon as they saw they were going to use you as a witness in this case, and you didn't even have to ask for it? A. Indeed, I did not. If I may state this, I already had insisted that it should be raised the first of July, but they wouldn't give it until the first of August, the time they said they would give it when I was employed there.

Q. On Saturday—the Saturday previous to this murder—you were over there at the factory, weren't you? A. Yes, sir.

Q. And that was on Saturday morning, too, wasn't it? A. Yes.

Q. And do you remember Frank working on the financial sheet that morning? A. No, sir, he was working on something else. I got up—I don't know what you call it, but something about the number of pencils, the number of gross. That was part of the data for that financial sheet.

Q. Now, Miss Hall, your recollection was all right when you swore before the Coroner's jury, wasn't it? A. Well, I thought it was a financial sheet we worked on that morning, because I never had seen the real financial sheet at that time.

Q. Isn't this what you told the Coroner's jury: "I remember on Saturday—the previous Saturday—I was over at the pencil factory and I remember his making out the financial sheet, and I helped to make out the financial sheet?" A. Well, that is the sheet I thought was the financial sheet until I seen what the financial sheet was, and I found out that it was the average sheet, not the financial sheet.

FRANK'S STATEMENT TO THE JURY.

Factory girls, who testified to the good character and reputation of Frank, were the last witnesses for the defense before the prisoner made his remarkable address to the jury lasting more than four hours. From one of the defense's character witnesses, Miss Irene Jackson, Solicitor Dorsey procured the testimony that the witness was in a dressing-room on the fourth floor at one time with another girl when Frank looked in upon them.

Here is Frank's story to the jury as he gave it the afternoon of August 18, 1913:

Gentlemen of the Jury: In the year 1884 on the 17th day of April, I was born in Quincy, Tex. At the age of three months I was taken to my parents in Brooklyn, N. Y., and I remained in my home until I came South, to Atlanta, to make my home here. I attended the public schools of Brooklyn and prepared for college in Cutt Institute, Brooklyn. In the fall of 1902 I entered Cornell University, where I took the course in mechanical engineering. I was graduated after four years, in June, 1906. I then accepted a position with the B. F. Sturtevant Company of Hyde Park, Mass. After remaining with this firm about six months I returned once more to my home in Brooklyn, where I accepted a position as testing engineer and draftsman with the National Meter Company of Brooklyn.

I remained in this position until about the middle of October, 1907, when, at the invitation of some citizens of Atlanta, I came South to confer with them in reference to the starting and operation of a pencil factory to be located in Atlanta. After remaining here about two weeks I returned to New York and engaged passage and went to Europe. I remained in Europe nine months. During my sojourn abroad I studied the pencil business, and looked after the erection and testing of the machinery which had previously been contracted for.

MARRIED LIFE EXCEPTIONALLY HAPPY.

The first part of August, 1908, I returned to America, and immediately came South to Atlanta, which has remained my home ever since. I married in Atlanta an Atlanta girl, Miss Lucile Selig. The major portion of my married life has been spent at the home of my parents-in-law, Mr. and Mrs. E. Selig, at No. 68 East Georgia avenue. My married life has been exceptionally happy. Indeed, these have been the happiest days of my life.

My duties as superintendent of the pencil factory were, in general, as follows: I had charge of the technical and mechanical end of the factory, looking after the operations and seeing that the product was turned out in quality equal to the standard set by our competitors. I looked after the installation of new machinery and the purchase of new machinery.

In addition to that, I had charge of the office work at the Forsyth street plant, and general supervision of the lead plant, which is situated on Bell street. I looked after the purchase of the raw materials that are used in the manufacture of pencils, kept up with the market of those materials, where the prices fluctuated, so that the purchases could be made to the best possible advantage.

DESCRIBE MOVEMENTS BEFORE THE MURDER

On Friday, April 25 (the day before the murder), I arrived at the factory on Forsyth street at about 7 o'clock—my usual time. I immediately started in on my routine work. At about 11 o'clock Mr. Schiff handed me the payroll books, covering the plants at Forsyth street and Bell street, for me to check over to see that the amounts and the extensions were correct.

This checking took me until about 12.30 o'clock, when I made out on a slip of paper the amount I wished drawn at the bank, went over to Montag Brothers, had the checks drawn and signed by Sigmund Montag, after which, accompanied by my assistant, Mr. Schiff, I went to the Atlanta National Bank and had the checks cashed.

In the afternoon I helped Mr. Schiff, checking over the money and filling the envelopes. This took us approximately until a quarter to 6. At this time the payment of the help took place, Mr. Schiff taking all the envelopes that were due the help that had worked from April 18 to 24, inclusive, out to the pay window, which is entirely outside either my inner office or the outer office, and out in the hall beyond—a little window that we have built.

After the help had been paid off, during which time I sat in my office, no one came into my office who asked me for a pay envelope or for the envelope of another.

This was in contradiction of the testimony of Helen Ferguson, who swore that she asked Frank Friday night for the pay envelope of Mary Phagan and that Frank said he could not give it to her.

DORSEY OBJECTS TO STORY OF SLIPS.

After the paying off of the help had taken place Mr. Schiff returned and handed me the envelopes which were left over, bound with an elastic band. I put them in the safe and Mr. Schiff busied himself clearing up the books and the files and placing them in the safe. While he was doing that I placed in the time clocks the slips to be used next day. I took out the two time slips dated April 25, which had been used by the help on Friday, April 25, and took two slips out to the clock. I noticed that I had neglected to stamp the dates on them, so I just wrote on them "April 26, 1913." In other words, I put the date of the day following, which is the way we usually do with the time clock.

After placing these slips in the clock and bringing the others back to the office Mr. Schiff and I left for home, it being about 6.30. These are the two slips I took out——

Solicitor Dorsey objected to the slips being introduced to the attention of the jury in this manner, asserting that they had not been identified. The Court permitted Frank to continue talking of them, but they were not considered in evidence.

Gentlemen, as I was saying, these two slips that had "April 26, 1913," written at the bottom are the two slips I put in the clock on the evening of Friday, April 25, to be used on the day following, which, of course, was April 26.

I neglected to mention in going over my duties at the factory that Mr. N. V. Darley was superintendent of labor and manufacture, and it fell to his duty to engage the help and distribute the help throughout the factory, and to discharge the help when it was necessary. In other words, he was the man who came directly in contact with the help.

PLAYED AUCTION BRIDGE WITH RELATIVES.

On Friday evening I got home about 6.30, had my supper, then went with my wife to the residence of her uncle, Mr. Carl Wolfenheimer, on Washington street, where Mr. and Mrs. Wolfsheimer and my wife and I played auction bridge for the balance of the evening. My wife and I returned home and retired about 11 o'clock.

On Saturday, April 26, I rose between 7 and 7.30 and leisurely washed and dressed, had my breakfast, caught a Washington street or Georgia avenue car—I don't recall which—and arrived at the factory on Forsyth street at about 8.30 o'clock, to the best of my recollection.

On my arrival at the factory, I found Mr. Holloway, the day watchman, at his usual place and I greeted him in the usual way. I found Alonzo Mann, the office boy, in the outer office. I took off my coat and hat and opened my desk and opened the safe, and assorted the various books and files and wire trays containing the papers that were placed there the evening before, and distributed them in their proper places about

(Continued on Following Page.)

Physicians Ridicule Testimony of State's Expert Who Exhumed Mary Phagan's Body.

Dr. George Bachman, a leading physician of Atlanta and a professor of physiology, was called by the defense in rebuttal of the State's expert, Dr. H. F. Harris, who had estimated half to three-quarters of an hour as the time that elapsed between Mary Phagan's departure from home and her murder in the pencil factory. Dr. Bachman said that this, as well as Dr. Harris's other conclusions, was absurd.

Dr. Thomas H. Hancock, proprietor of a hospital in Atlanta, was the next expert called by the defense. He described experiments he had made with cabbage and wheat bread in the stomachs of healthy persons and swore that he found very little change in the materials which had been in the stomachs much longer periods than those in Mary Phagan's were said to have been by Dr. Harris.

Dr. Hancock also swore Frank was entirely normal in every respect. He was shown the testimony of Dr. Harris, the State's expert, and asked if the conclusions of the doctor were warranted. He replied that they were not, that no physician could attempt to determine accurately whether a certain blow had or had not produced unconsciousness or whether a certain wound like that described on Mary Phagan's head had been made before or after death. He characterized Dr. Harris's estimate of the time the girl met her death after eating dinner as "a mere conjecture."

Dr. Willis F. Westmoreland, a distinguished physician of Atlanta and first president of the Georgia State Board of Health, was the next witness. He described Dr. Harris's time estimate as the "wildest guessing I ever heard." Other conclusions of Dr. Harris he called "surmises."

An old feud between Dr. Westmoreland and Dr. Harris was revived in this clash of opinions between the two experts, Dr. Westmoreland several years before having filed charges of "scientific dishonesty" against the other physician. A question of medical ethics and jurisprudence was involved in the following examination of Dr. Westmoreland by Mr. Arnold:

Q. I want to ask you this question: In all your experience with chemistry and medicine, where matter was involved in a lawsuit, have you ever known the chemist or physician before to make an analysis of the body or parts of the body, and destroy the parts after he made the analysis of them, and not submit to the court or to the other side the part of the body for equal test? A. The absolute law of medical jurisprudence is that there always should be such substance saved.

SAVING MATERIALS IS UNWRITTEN LAW.

Q. That is almost the unwritten law for doctors to save something for the other man to test by? A. It is the written law.

Q. Have you ever heard of one man employed by one side of a case not notifying the other——

Mr. Dorsey—I object to that on the ground that it is immaterial and irrelevant.

Mr. Arnold—If Your Honor please, here is the case of a chemist, an alleged chemist, who was employed by my friend Dorsey and we had no notice of it in the world. He says he took the employment not for any public reasons, but because he liked my friend Dorsey. That was the only reason he gave, and he removes the contents of this stomach and the stomach itself, and in his own back room he makes a test and uses up every particle of the subject. He not only doesn't leave anything else for any other chemist to go by, but he decides our case and decides us in his own mind, without letting us see the things he investigated with. Now, I want to show that there is a rule of the medical profession against just that sort of thing. This is an important case here, and are we to be tried by what little data he dishes out to us?

The Court—I will admit it this far: You can ask this doctor what the ethics of the medical profession are as to matters of this kind, regardless of what anybody has done.

Mr. Arnold resuming examination—Doctor, give us your view of the ethics recognized by the medical profession as regards the laying aside a part of a specimen in a case such as